

**IN THE UNITED STATES DISTRICT COURT
IN THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

KASEY D. ALVES

PLAINTIFF

V.

CIVIL ACTION NO. 1:06cv912-LG-JMR

**HARRISON COUNTY, MISSISSIPPI, BY AND
THROUGH THE BOARD OF SUPERVISORS, ET AL.**

DEFENDANTS

**DEFENDANT, GEORGE PAYNE’S MOTION IN LIMINE NO. 2
TO BAR PLAINTIFF’S EVIDENCE AND REFERENCES TO
TRIAL TESTIMONY IN U.S.A. V. TEEL**

COMES NOW, Defendant, Sheriff George Payne, in his official capacity, by and through his attorneys of record, Dukes, Dukes, Keating & Faneca, P.A., and moves this Honorable Court in *limine*, for an Order barring Plaintiff’s evidence and references to trial testimony in *U.S.A. v. Teel*.

In support thereof, Defendant states as follows:

1. Defendant respectfully moves this Court to bar Plaintiff from offering any trial testimony of witnesses and criminal defendants in the criminal trial of *U.S.A. v. Teel*, as this evidence is inadmissible hearsay with no exceptions, it is not relevant for the purposes that Plaintiff seeks, and/or its unfairly prejudicial effect outweighs its probative value and should be excluded. *See Exhibits “4” through “10”*.

2. The entirety of this evidence would be introduced to prove the “truth of the matter asserted” and is the personification of hearsay, pursuant to Fed. R. Evid. 801 and 802. Pursuant to Fed. R. Evid. 401 and 402, this evidence is not relevant for the very purposes in which it is anticipated that Plaintiff seeks to utilize it. Fed. R. Evid. 403 provides that although evidence may be considered relevant, it may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by

considerations of undue delay, waste of time, or needless presentation of cumulative evidence. This evidence will be unfairly prejudicial to the Defendant and should be barred. Additionally, this is strongly akin to what Fed. R. Evid. 404(b) strictly prohibits.

WHEREFORE PREMISES CONSIDERED Defendant, George Payne respectfully requests this Court to enter an Order granting this Motion in Limine and respectfully requests the Court to enter an Order as follows:

- A) Directing the Plaintiff through their respective counsel, and counsel individually, not to mention, refer to, interrogate concerning, voluntarily answer, or attempt to convey before the jury whether orally or through a document, at any time during these proceedings, in any manner, either directly or indirectly, the subject matters as stated above without first informing the Court and obtaining permission of the court outside the presence and hearing of the jury;
- B) Instructing the Plaintiff, through their respective counsel, and counsel individually, not to make any reference or inference to the fact that this motion has been filed, argued or ruled upon by this Court; and
- C) Instructing Plaintiff and Plaintiff's attorney to warn and caution each and every witness appearing in their phase of this litigation to strictly comply with the Court's ruling.

RESPECTFULLY SUBMITTED, this the 13th day of April, 2009.

**GEORGE PAYNE, JR., IN HIS OFFICIAL
CAPACITY ONLY AND HARRISON COUNTY
SHERIFF'S DEPARTMENT, Defendant**

DUKES, DUKES, KEATING & FANCA, P.A.

BY: /s/Cy Faneca
CY FANCA

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CERTIFICATE OF SERVICE

I, CY FANECA, do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Woodrow W. Pringle, III, Esquire
2217 Pass Road
Gulfport, MS 39501
Attorney for Plaintiff

Karen Young, Esq.
Meadows Riley Law Firm
Post Office Drawer 550
Gulfport, Mississippi 39502
Counsel for Harrison County

This, the 13th day of April, 2009.

s/Cy Faneca
CY FANECA